REMARKS

Previously, responsive to the requirement for restriction, Applicants elected Group I, claims 11-16, drawn to a fuel cell, without traverse. Non-elected method claims 17-20 were cancelled without prejudice, in that they may be made the subject of a divisional application, to be filed at anytime during the dependency of the present application.

Drawings

The drawings were objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference number "8" not mentioned in the specification.

The specification has been amended to indicate that reference 8 refers to the current collector. See page 5, line 5 of the original specification.

As disclosed, the invention includes an anode-supported fuel cell, comprising an anode support 2; an anode layer 3 in contact with a first side of said anode support; an electrolyte layer 4 in contact with said anode layer; a cathode layer 5 in contact with said electrolyte layer; and a stress compensation layer in contact with a second side of said anode support on a side opposite the anode layer, wherein, said stress compensation layer is comprised of a first porous layer 6 extending without essential interruptions and in contact with the second side of said anode support and with a porosity of at most 40%, and a second porous layer 7 with a sintered thickness of 10 to 20 µm

and the second porous layer being electron-conducting in the operational state. The current collector 8 presses against layer 7.

Withdrawal of the objection is solicited.

Arrangement of the Specification

The specification was objected to for not complying with 37 CFR 1.77(b) requiring that the specification of a utility application should include the certain sections headings.

The specification has been responsively amended.

Withdrawal of the rejection is solicited.

Claim Rejections - 35 USC § 112

Claims 11-16 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Official Action stated that regarding claim 11, it was unclear whether the thickness of the porous layer is the thickness of the final structure (after sintering) or an intermediate structure (before sintering). The Official Action stated that the specification discloses that the thickness of such a layer is less than 100 µm at the time of application, so that a layer thickness of 10- 20 µm results on sintering.

As amended, the recitation is believed to be definite within the meaning of section 112, second paragraph in that the claim clearly recites a before sintering dimension. The “at most 100 µm” dimension is disclosed at page 2, line 16 and page 3, line 6.

The Official Action stated that regarding claim 13, it is unclear whether the electron-conducting layer comprises nickel, nickel oxide, or both nickel and nickel oxide.

The Official Action stated that the specification states that "A porous electron-conducting layer, such as a layer of nickel oxide which on sintering and reduction is converted to porous nickel ... ".

Claim 13 has been amended with the disclosure that prior to sintering, the layer is nickel/nickel oxide (page 3, line 5).

The Official Action stated that claim 14 recites the limitation "the substrate" in line 3 and that there was insufficient antecedent basis for this limitation in the claim.

The claim has been responsively amended.

New claims 21-24 are based on claims 11-15, reciting the sintered fuel cell.

No new matter is entered by way of these amendments.

Withdrawal of these rejections is therefore solicited.

Claim Rejections - 35 USC § 103

Claims 11-13 and 16 were rejected under 35 U.S.C. 103(a) as being unpatentable over Sarkar et al (US 2004/0121222) in view of Mardilovich et al (US 2004/0081878).

Claims 14 and 15 were rejected under 35 U.S.C. 103(a) as being unpatentable over Sarkar et al (US 2004/0121222) in view of Mardilovich et al (US 2004/0081878) as applied to claim 11 above, and further in view of Hartvigsen et al (US 6265095).

Notice, however, that both Sarkar and Mardilovich et al. have a U.S. reference date that is subsequent to the Netherlands priority application filed on date of July 3, 2002. Entitlement to the Netherlands priority is perfected, by the attached verified translation of the Netherlands application 1020985.

Thus, neither Sarkar nor Mardilovich et al. are prior art to the present invention.

Withdrawal of these rejections is solicited.

Claims 11-15 were rejected under 35 U.S.C. 103(a) as being unpatentable over Donelson et al. (US 6492053).

Claim 16 has been incorporated into claim 11 and new claim 21. Therefore, the obviousness rejection over Donelson is moot.

There being no substantive rejection of claim 16 and claim 16 not being incorporated into claim 11 as well as claim

21, allowance of claims 11 and 21 and the dependent claims is solicited.

A Notice of Allowance is also solicited.

Should there be any matters that need to be resolved in the present application; the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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APPENDIX:

The Appendix includes the following item(s):

- a verified English translation of Netherlands application 1020985 filed July 3, 2002 including Verified Translation Certification